

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	No. CV-F-05-0431 REC LJO
)	
Plaintiff,)	ORDER SETTING THE HEARING
)	ON DEFENDANTS' MOTION TO
vs.)	STAY FOR MONDAY, JULY 17,
)	2006, SETTING A BRIEFING
GEORGE LOREN REED,)	SCHEDULE, AND DIRECTING
Individually and as Trustee)	DEFENDANTS TO FILE A
of the REED FAMILY TRUST;)	SUPPLEMENTAL BRIEF.
DUANE REED, Individually and)	
as Trustee of the REED FAMILY)	(Doc. 50)
TRUST; LIDCO INC.; and)	
SHIRLEY LUNDY,)	
)	
Defendants.)	
)	
)	

On February 2, 2006, the Court issued its Order Granting United States' Motion for Default Judgment, Final Judgment, and Order of Foreclosure (the "Order"). On May 3, 2006, Defendants George Loren Reed, Duane Reed, and Shirley Lundy (collectively "Defendants") filed a notice of appeal of the Order and a Motion for Stay of Final Judgment of 2nd Day of February, 2006 (the "Motion"). Defendants did not request that the Court set a date for oral argument on the Motion. Nor did the Defendants state

1 why a stay of the final judgment pending the outcome of an appeal
2 is appropriate.

3 Defendants are not entitled to an automatic stay of the
4 final judgment in this case. Under Rule 62 of the Federal Rules
5 of Civil Procedure, an automatic stay is in place only for 10
6 days following the entry of judgment. This period has now
7 lapsed.

8 Rule 62(d) permits an appellant to obtain a stay pending
9 appeal by posting a supersedeas bond:

10 When an appeal is taken the appellant by
11 giving a supersedeas bond may obtain a stay
12 subject to the exceptions contained in
13 subdivision (a) of this rule. The bond may be
14 given at or after the time of filing the
notice of appeal or of procuring the order
allowing the appeal, as the case may be. The
stay is effective when the supersedeas bond
is approved by the court.

15 A court may waive the supersedeas bond requirement in
16 "extraordinary circumstances" where alternative means of securing
17 the judgment creditor's interest are available. Holland v. Law,
18 35 F. Supp. 2d 505, 506 (S.D. W. Va. 1999); see Int'l Telemeter,
19 Corp. v. Hamlin Int'l Corp., 754 F.2d 1492, 1495 (9th Cir. 1985)
20 ("Although Federal Rule of Civil Procedure 62 provides that a
21 supersedeas bond may be used to stay execution of a judgment
22 pending appeal, the court has discretion to allow other forms of
23 judgment guarantee.").

24 Defendants shall file a supplemental brief in support of
25 their motion to stay discussing (1) whether they must comply with
26 the bond requirement of Rule 62(d) and, (2) if they must comply,

1 setting forth a plan to provide security by way of a supersedeas
2 bond. Failure to provide such a supplement will result in denial
3 of the Motion.

4 ACCORDINGLY:

- 5 1. The Motion is set for hearing on Monday, July 17, 2006, at
6 1:30 p.m.
- 7 2. Defendants shall file a supplement to the Motion no later
8 than June 19, 2006.
- 9 3. Plaintiff shall submit any briefing in opposition to the
10 Motion by July 3, 2006.
- 11 4. Defendants shall file any reply to the opposition by July
12 10, 2006.

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14
15 IT IS SO ORDERED.

16 **Dated: May 8, 2006**
810ha4

/s/ Robert E. Coyle
UNITED STATES DISTRICT JUDGE